

REMARKS

Reconsideration and allowance are respectfully requested in view of the foregoing amendments and the following remarks.

Upon entry of this Amendment, claims 1-21 are pending in the application. Claims 1-5 and 9-18 have been amended and claims 19-21 have been added.

It is requested that the Information Disclosure Statement filed November 18, 2003 be considered and acknowledged.

Applicant respectfully acknowledges the indication that claims 2-8 and 11-17 would be allowable if rewritten to overcome the rejections under 35 U.S.C. §112, second paragraph, and rewritten into independent form. However, in view of the foregoing amendments and the following remarks, Applicants respectfully submit that all claims are allowable.

Claims 2-9 and 11-18 are rejected under 35 U.S.C. §112, second paragraph. Claims 2-5, 9, 11-14, and 18 have been amended for clarity purposes to maintain proper antecedent basis. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 1 and 9 are rejected under 35 U.S.C. §103(a) over Vasudeva, U.S. Patent No. 5,887,715. This rejection is respectfully traversed.

Claim 1 is directed to a tool container including a case portion defining a storage space and a cover portion being movably attached to the case portion. The cover portion is pivotally moveable between a closed position in which the cover portion covers an upwardly facing opening of the storage space and an open position in which access to the storage space through the upwardly facing opening is permitted. The cover portion is securable in the closed position. The cover portion has an elongated level storage space for storing a level therein, and a secondary cover portion pivotably mounted to the cover portion for movement between a closed position wherein the secondary cover portion covers the elongated level storage space to retain the level therein and an open position wherein access to the level stored in the elongated storage space is permitted. A handle is connected to the cover portion to facilitate transport of the tool container.

Vasudeva does not disclose the tool container as recited in claim 1. As shown in Figs. 1 and 8 of Vasudeva, Vasudeva discloses a tool case that defines an opening for accommodating a snap-in module 8. The opening is defined by four side walls that extend from an outer surface of the tool case into the box portion of the tool case. The snap-in modules are box shaped and include four side walls, a bottom wall, and a door that is rotatably connected to one of the side walls for pivotal movement with respect thereto.

Vasudeva does not disclose a tool container including a cover portion having an elongated level storage space for storing a level therein, and a secondary cover portion pivotably mounted to a cover portion for movement between a closed position and an open position, as recited in claim 1. In contrast, Vasudeva discloses a snap-in module for storing items that is secured within an opening provided in the tool case. There is no disclosure in Vasudeva of a secondary cover portion that is pivotably mounted to the cover portion so as to cover an elongated level storage space. Moreover, since the tool case of Vasudeva has an opening that extends through the wall of the tool case, it would not have been obvious to just provide a door 42 directly to the tool case for storing a level. Withdrawal of the rejection of claim 1 is respectfully requested.

Claim 9 is allowable by virtue of its dependence on claim 1 and additionally allowable for its recitation of additional patentable subject matter.

Claims 10 and 18 are rejected under 35 U.S.C. §103(a) over Vasudeva in view of Mitchell, U.S. Patent No. 4,058,210. This rejection is respectfully traversed.

Neither Vasudeva nor Mitchell, alone or in combination, teach or suggest the combination tool container and level as recited in claim 10. As noted above with respect to claim 1, Vasudeva does not disclose an elongated level storage space in the cover portion, and a secondary cover portion pivotably mounted to the cover portion for movement between a closed position and an open position, as recited in claim 10. The Office Action relies on Mitchell to teach a tool case having a small compartment for holding a small level. Specifically, Mitchell teaches L-shaped blocks secured to opposite ends of the case that are designed to provide a support for a level. This does not make up for deficiencies noted above with respect to Vasudeva. Withdrawal of the rejection of claim 10 is respectfully requested.

Claim 18 is allowable by virtue of its dependence on claim 10 and additionally allowable for its recitation of additional patentable subject matter.

New claims 19 and 20 have been added to claim additional patentable aspects of the present invention. Entry and allowance of these new claims is respectfully requested.

New claim 21 is added to focus on the patentable features of claims 2 and 11. None of the prior art discloses or suggests the features of new claim 21. Claim 21 is allowable.

All objections and rejections have been addressed. It is respectfully submitted that the present application is now in condition for allowance, and a notice to that effect is earnestly solicited.

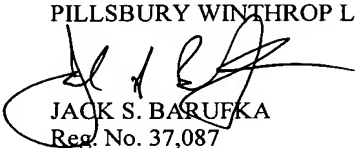
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Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Should there be any questions or concerns regarding this application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,

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